



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 633

IN THE MATTER
OF
PATTI GIULIANO

DISPOSITION AGREEMENT

The State Ethics Commission and Patti Giuliano enter into this Disposition Agreement pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 20, 1999, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Giuliano. The Commission has concluded its inquiry and, on May 22, 2000, found reasonable cause to believe that Giuliano violated G.L. c. 268A.

The Commission and Giuliano now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. At all times material to this matter, Giuliano was a member of the Board of Registration of Chiropractors ("Board"). As such, she was a state employee within the meaning of G.L. c. 268A, §1.
2. The Board is responsible for licensing chiropractors, regulating their professional conduct, and taking disciplinary action against those chiropractors who fail to meet the regulatory standards. Board disciplinary action sometimes includes an adjudicatory proceeding to determine whether to suspend or revoke a chiropractor's license to practice.
3. At all times material to this matter, John Sullivan was a Division of Registration ("DOR") investigator.
4. The DOR is an umbrella agency that provides legal, investigative and administrative services to the 33 boards of professional registration, one of which is the Board.
5. At all time material to this matter, Giuliano's husband, Dr. Peter Kevorkian, was a practicing chiropractor.
6. In or about late 1997, Giuliano told DOR Investigator Sullivan that she and her husband were being harassed by a patient of Dr. Kevorkian.
7. The patient contacted the Board in early spring of 1998, and began to discuss certain charges against Kevorkian with an investigator and was threatening to file a formal complaint against Kevorkian with the Board. The investigator immediately reported the matter to the Board's general counsel. The matter was given special assignment status, meaning potentially serious charges had been made that could develop into a complaint. Giuliano maintains that she was not aware of this action.
8. In February 1998, Giuliano and Kevorkian received a telephone call from the patient threatening to file a formal complaint against Kevorkian with the Board. Giuliano telephoned Sullivan and informed him of the threat by the patient, the same one by whom Giuliano and Kevorkian had indicated had been

harassing them. Giuliano and Sullivan discussed the investigative procedure which would be followed if a complaint was eventually filed.

9. On each of two separate occasions, Giuliano made comments to two board members while the complaint was pending or about to be filed against her husband. On each occasion, Giuliano spoke favorably about her husband and disparagingly about the complainant.

10. The patient filed a formal complaint with the Board on April 8, 1998.

11. At a subsequent Board meeting, the chairman informed Giuliano that comments by her concerning her husband's case were inappropriate. Giuliano did not participate in and/or comment on the case after this point.

Conclusions of Law

12. Section 4(c) of G.L. c. 268A prohibits a state employee from acting as agent for anyone other than the Commonwealth or a state agency in connection with any particular matter in which the Commonwealth or state agency is a party or has a direct and substantial interest.

13. The initial inquiry and subsequent complaint concerning Kevorkian were in effect requests for determinations. Therefore, they were particular matters.^{1/} The Board, a state agency hearing the case, had a direct and substantial interest in the initial inquiry because the charges had been reported to it and were sufficiently serious to warrant special assignment status. And, of course, the Board had a direct and substantial interest in the formal complaint once it was filed. When Giuliano discussed the investigative process with an investigator that could have been assigned to the case and made comments to fellow Board members in relation to the anticipated and/or filed complaint on behalf of her husband, she acted as agent for someone other than the Commonwealth in connection with a particular matter in which the Commonwealth was a party. Therefore, Giuliano violated G.L.c.268A, §4(c).

14. Section 4 reflects the maxim that a person cannot serve two masters. Whenever a state employee acts on behalf of private interests in matters in which the state also has an interest, loyalties are divided and there is the potential use of insider information and favoritism, all at the expense of the state. In this case, Giuliano's private actions concerning an anticipated or ongoing sensitive investigation of her husband were in direct conflict with her responsibilities as a member of the very Board that would handle that investigation.

15. Giuliano cooperated with the Commission's investigation.

Resolution

In view of the foregoing violation of G.L. c. 268A by Giuliano, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Giuliano:

(1) that Giuliano pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A, §4(c);

(2) that Giuliano waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: July 10, 2001

¹/"Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).